1952

File No. O/Land Requisition/52
No 13/52

Legal Department
G **BRANCH**

Subject:—Opinion on the Bombay Land Requisition Act, 1948

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The view taken in paragraph 2 of the Revenue Department note at page 13 ante is correct. However if Government releases these premises from requisition under the proviso to section 3 of the Requisitioned Land (Continuance of Powers) Act, 1947 and thereafter directs under section 7 of the Bombay Land Requisition Act, 1948 (Bom. Act No. XXXIII of 1948), that the said premises shall continue to be subject to requisition under the said Bombay Act, then subject to any agreement entered into by the appropriate Government with the Landlord of the premises it would be possible for Government to direct the landlord by an order made under section 8A of the Bombay Act to execute the necessary repairs (such as white washing etc). within the time mentioned in the order and on his failure to do so, to cause the repairs to be executed at the expense of the landlord and to recover their cost from the compensation payable to him in respect of the said premises.

Sd/-P.M.Lad
31-1

Remembrancer of Legal Affairs.

U.R. to C.S.D., No. G- 43 , dated the 31st January 1952.

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4 copies.

Office of the R.L.A.

Section 6 of the Bombay Land Requisition Act, 1948, provides for the requisition of vacant premises. The premises in the presant case not being vacant cannot be requisitioned under section 6. Further the leases of these premises to Government and being terminated Government is presumed to be in possession of these premises and so long as such possession continues, the question of requisitioning of these premises for a state purpose or for a public purpose under section 5(1) would not arise. In the circumstances, the only feasible course, it appears, would be to terminate the leases by gig giving a month's notice to the Landlords and to requisition these premises under section 5(1) with effect from the date of the termination of the lease, as evidently the housing of ration sheps would be a public purpose and there would be no objection to such requisitioning.

Sd/-P.M.Lad
2-2

Remembrancer of Legal Affairs.

U.R. to Assistant Controller of Rationing (C.G.S.)
No. G- 47 , dated the 4th February 1952.

S.C. 25/7
4 copies.

Office of the R.L.A.

The following two questions are referred to this office for R.L.A.'s advice :-

(1) Whether the amount of Rs. 1312-8-0 claimed by the Solicitors on behalf of the landlords of Darya Mahal ✗ godown for riot tax is payable by Government and

(2) Whether the view taken by the Food Controller's Office that in view of the provisions of sub-section (4) of section 8 of the Bombay Land Requisition Act, 1948, no further appeal can lie against the decision of the High Court in appeal in the Darya Mahal compensation case is correct.

Regarding the first question the view taken by the Food Controller's Office is correct. The Chief Presidency Magistrate has by an order on 4th July 1950 exempted from liability to pay riot tax owners of buildings requisitioned by Government used for public purpose and not used or intended to be used for purposes of profit, where but for such exemption, the incidence of the tax would fall upon Government in this case the premises being requisitioned ones and being used by Government for public purposes, namely, for storing foodgrains, the landlord is exempt from the liability to pay the riot tax. Consequently, as held in R.L.A.'s opinion No. Gx G-272, dated 8th August 1950 the question of payment by Government of the riot tax does not arise.

As regards the second question also the view taken by the Food Controller's Officex is correct. Sub-section (4) of section 8 of the Bombay Land Requisition Act, 1948 provides that no further appeal shall lie against any decision in appeal under sub-section (3), In view of this express provision no further appeal would lie.

Sd/-P.H.Lad
12-11

Remembrancer of Legal Affairs.

U. R. to F. C. No. G-613, dated 12th November 1952.

Office of the R.L.A.

The Civil Supplies Department may inform the Collector of Thana that even though the primary responsibility to pay compensation in respect of requisitioned premises falls on Government under section 8 of the Bombay Land Requisition Act, 1948, the allottee of the said premises is liable to pay to Government that amount of compensation and if he falls to pay, it can be recovered from him as arrears of land revenue under section 8 B(2) of the said Act. No financial liability is therefore likely to arise for Government. But even if it arises, the liability will not be of any particular officer of Government and therefore there is no question of undertaking any financial liability by the Financial Adviser and Additional Secretary to Government, Civil Supplies Department as the head of his office.

So far as the legal liability is concerned, req uisitioning of premises for housing a Government servant is a public purpose and no legal complications are likely to arise on that score. As for the other legal complications, if the issues are taken to a Court of Law, they have to be defended as any other litigation and there is no question of a particular officer giving an undertaking in respect of responsibility for legal liability.

Sd/- P.M.Lad
4-12

Remembrancer of Legal Affairs.

U.R. to C.S.D. No. G- 672 dated the 6th December 1952.

S.C. 25/7

4 copies.